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May 1, 2023

BY ECF

Honorable Eric N. Vitaliano
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Surriel v. Port Authority, et al.*, 19 CV 3867 (ENV) (ST)

Your Honor:

I represent plaintiff in the above-referenced action. I write pursuant to the order entered this afternoon to respectfully respond to the letter motion defendants filed at DE #118.

As defense counsel correctly notes, plaintiff filed a Rule 41 stipulation at the Court's direction withdrawing certain claims and defendants from the action before the parties' cross-motions for summary judgment were briefed. *See* DE #91 and amended order dated May 26, 2022. In opposing defendants' summary judgment motion, plaintiff agreed, upon due consideration, to withdraw certain additional claims in the interest of efficiency and judicial economy. *See* DE #111, pp. 4-7 & 11.

Thus, when the Court recently granted plaintiff leave to file an amended complaint asserting a malicious prosecution claim, *see* DE #115, the undersigned omitted from the amended pleading the previously withdrawn claims and defendants and added the malicious prosecution claim as instructed. No other changes to the pleading were made.

Plaintiff respectfully submits that, under these circumstances, there is no need for a hearing: the Third Amended Complaint (DE #116) – which is of limited relevance at the summary judgment stage – asserts only the remaining claims and is consistent with the pending summary judgment memoranda and the Court's orders. That said, plaintiff is prepared to participate in any proceeding or provide such further information and clarification as pleases the Court.

Thank you for your attention to this matter.

Respectfully submitted,



Gabriel P. Harvis

cc: Defense Counsel